



# ***City of Manchester, NH Code of Ordinances***

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## ***Chapter 150 Housing Code***

*Passed February 17, 1998; Amended thru 2/7/09*

## CHAPTER 150: HOUSING CODE

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## **GENERAL PROVISIONS**

### **§ 150.001 SHORT TITLE.**

This chapter shall be known and shall be cited as the "Housing Code of the City of Manchester, New Hampshire."

('71 Code, § 13-1) (Ord. passed 5-31-66)

### **Administration and Enforcement**

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### **§ 150.002 DEFINITIONS.**

A) *Construction and interpretation of certain words.* Whenever the words **DWELLING**, **DWELLING UNIT**, **ROOMING UNIT**, **ROOMING HOUSE**, or **PREMISES**, are used in this chapter, they shall be constructed as though they were followed by the words "or any part thereof."

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACCESSORY STRUCTURE.** A building, the use of which is incidental to that of the main building and which is located on the same lot.

**APPROVED.** As applied to a written policy or standard of the Code Enforcement Agency.

**BASEMENT.** Any portion of the building partly underground and having at least one-half of its height above the average grade.

**BOARD.** The Housing Code Board.

**BUILDING.** Any structure or part of a structure.

**BUILDING CODE.** The current Building Code of the city.

**CELLAR.** Any portion of the building partly or completely underground and having at least one-half of its height below average grade.

**CERTIFICATE OF COMPLIANCE.** A document issued by the Housing Code Department attesting that the designated dwelling, dwelling unit, or rooming house on inspection was found to be in compliance with this chapter. Certificates shall be prepared by the Housing Code Department and shall contain such information as is required by the Department, including a description of the rental unit, the expiration date of the certificate, and requirements as to reapplication and reinspection and renewal.

**CONDOMINIUM UNIT.** A dwelling unit together with the undivided interest in the common area appertaining to

that unit.

**CROSSWIRING.** The condition where all or part of the electric service for one dwelling unit is connected to or paid for through the electric meter that serves another dwelling unit.

**DILAPIDATED.** No longer adequate for the purpose or use for which it was originally intended.

**DUMPSTER.** A large sturdy metal container, with a capacity exceeding 2 cubic yards, for the collection of rubbish and garbage, designed to be emptied or transported to a dump by a specially designed truck. (Rev. 11/5/03)

**DWELLING.** Any building, structure, trailer, mobile home or camp or part thereof, used and occupied for human habitation or intended to be so used; and includes any appurtenance belonging thereto or usually enjoyed therewith.

**DWELLING UNIT.** A suite of one or more rooms located within a dwelling with facilities for regular cooking, and occupied or intended to be occupied by one or more individuals living in common.

**EXITWAY.** An unobstructed passageway to the out-of-doors at ground level.

**EXTERMINATION.** The control and elimination of insects, rodents, vermin, and other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

**HABITABLE ROOM.** A room which is designed for or may be used for living, sleeping, eating, or cooking. Storerooms, bathrooms, toilets, closets, halls, or spaces in attics or spaces in basements are not **HABITABLE ROOMS** except as permitted in this chapter.

**HAZARDOUS BUILDING.** Any building which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

**INFESTATION.** The presence within or contiguous to a structure or premises of insects, rodents, vermin, and other pests.

**INTERIM RENTAL PERMIT.** A document issued by the Planning and Community Development Department authorizing the owner to rent, offer for rent, or allow the occupancy of the designated dwelling, dwelling unit, or rooming house for a specified term pending further action. Permits shall be prepared by the Planning and Community Development Department and shall contain such information as is required by the Director including a description of the rental unit in question, the expiration date of the permit and requirements as to application, inspections, and certificates of compliance.

**LEAD-BASED PAINT.** Any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the safe level of lead in residential paint and paint products.

**LET FOR OCCUPANCY** or **LET.** To allow the use of a dwelling unit by any person or persons with or without remuneration.

**MULTI-FAMILY.** More than two dwelling units.

**OCCUPANT.** Any person (including owner or agent) living and sleeping in a dwelling unit or having actual possession of the dwelling or rooming unit.

**OWNER.** Any person or agent having a legal or equitable interest in the property or premises or control over its use or disposition. It shall include any part-owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant in entirety of the whole or any part of the premises.

**PERSON.** Any individual, association, club, society, firm, partnership, or body corporate or politic.

**PLUMBING or PLUMBING FIXTURE.** Water heating facilities, water pipes, gas pipes, garbage and disposal units, waste laboratories, bathtubs, shower baths, installed clothes washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer, or vent lines.

**PREMISES.** A plot or parcel of land including any dwelling or accessory structure thereon.

**PUBLIC NUISANCE.** Includes the following:

- (a) The physical condition, or use of any premises regarded as a public nuisance at common law.
- (b) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures.
- (c) Any premises which have unsanitary sewerage or plumbing facilities.
- (d) Any premises designated as unsafe for human habitation or use.
- (e) Any premises from which the plumbing, heating, and/or facilities required in this chapter have been removed, or from which utilities have been disconnected, destroyed, removed, or rendered ineffective, or the required precautions against trespassers have not been provided.
- (f) Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or unsecure as to endanger life, limb, or property.
- (g) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds.
- (h) Any structure or building that is in a state of dilapidation, deterioration, or decay; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

**REMOTE EXITWAY.** Exitways to be arranged or constructed as to minimize any possibility that both exitways may be blocked by any one fire or other emergency.

**RENOVATION.** A building and its facilities made to conform to present day minimum standards of sanitation, fire, and life safety.

**RENTAL PROPERTY.** Any residential unit in a building, dwelling, or rooming house which provided permanent or transient living facilities and occupied by tenants on a rental basis. This term shall include, but not be limited to, hotels, motels, and dormitories so long as they are offered for rent or allowed to be occupied by others.

**ROOMING HOUSE.** Any structure containing three or more rooming units, in which space is let by the owner or operator to persons who are not members of the family.

**ROOMING UNIT.** A dwelling unit which consists of a room or suite of two or more rooms without facilities for regular cooking, occupied or intended for occupancy by one or more individuals living in common. Whenever the term **DWELLING UNIT** is used in §§ 150.035 through 150.090 of this chapter, it shall also mean **ROOMING UNIT** unless a different meaning clearly appears in the context.

**RUBBISH.** The combustible and non-combustible waste materials, except garbage, and the term shall include the residue from burning wood, coal, coke, and other combustible materials, papers, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

**SMOKE DETECTION DEVICE.** A wall or ceiling-mounted assembly containing an ionization chamber or photoelectric type of smoke detector, control equipment, and audible alarm in one unit which detects visible or invisible particles of combustion and which, upon detection of smoke, activates the alarm; which device is listed by a nationally recognized laboratory that maintains periodic inspections of the list equipment where produced, and whose listing states either that the equipment meets nationally recognized standards or that the equipment has been tested and found suitable for use in a specified manner.

**SPECIAL INSPECTIONS.** Any requested inspection which is not a part of the city's regular inspection program.

**STRUCTURE.** Assembly of materials forming a construction for occupancy or use, including among others, buildings, stadiums, tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, open sheds, coal bins, shelters, fences, and display signs.

**TOTER.** A garbage/rubbish container with a fixed hinged lid, wheels and a horizontal handle. The container must meet the approval of the Public Works Director and is typically 65 to 95 gallons in size. (Rev. 11/5/03)

**VENTILATION.** The process of supplying and removing air by natural or mechanical means to or from any space:

(a) *Mechanical:* ventilation by power-driven devices.

(b) *Natural:* ventilation by opening to outer air, through windows, skylights, doors, louvers, or stack wind driven devices.

**WORKMANLIKE.** Such maintenance and repairs shall be made in a reasonable and skillful manner. ('71 Code, § 13-2) (Ord. passed 8-2-60; Am. Ord. passed 4-15-80; Am. Ord. passed 3-16-82; Am. Ord. passed 9-2-86; Am. Ord. passed 10-15-91; Am. Ord. passed 2-15-94; Am. Ord. passed 6-21-94 Am. Ord. passed 2-7-09)

#### **§ 150.003 FINDING OF FACT.**

The Board of Mayor and Aldermen finds that there exists in the municipality dwellings which are unfit for human habitation due to dilapidation, dangerous defects which are likely to result in fire, accidents, or other calamities, unhealthy or hazardous or dilapidated conditions. ('71 Code, § 13-3) (Ord. passed 8-2-60)

#### **§ 150.004 EXCEPTIONS TO REGULATIONS.**

Any dwelling, building, or structure situated within a historic district established under R.S.A. 31:89-b may be approved by the Board of Mayor and Aldermen as a special exception, after a public hearing, and the provisions of this chapter may be waived in their application to such dwelling, building, or structure in whole or in part or so modified as the Board of Mayor and Aldermen may specify. ('71 Code, § 13-4) (Ord. passed 5-31-66)

#### **Statutory reference:**

*Buildings within historic district as a special exception, R.S.A. 647:46*

#### **GENERAL REGULATIONS**

#### **§ 150.015 OVERCROWDING.**

No person shall let to be occupied and no person shall occupy any dwelling or dwelling unit which is overcrowded. Overcrowding is determined by the following:

(A) No habitable room other than a kitchen or dining alcove, shall contain less than 65 square feet of floor area, nor shall the least horizontal dimension of such room be less than seven feet.

(B) The total area in all habitable rooms in a dwelling unit shall be such as to provide at least 65 square feet of floor area per person.

(C) Every sleeping room or room used for sleeping purposes shall have at least 50 square feet of floor area per person. Children under one year of age shall not be counted, and a child more than one year of age but under ten years shall be deemed one-half person.

('71 Code, § 13-90) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.016 FLOOR AREA COMPUTATION.**

In computing floor area under § 150.015 of this subchapter, the space used for closets or other enclosed spaces and, in the case of rooms with sloping ceilings, portions of such rooms with less than four feet in height shall be excluded in computing the area.

('71 Code, § 13-91) (Ord. passed 4-15-80)

#### **§ 150.017 WAIVER.**

The Department, on application from the owner or occupant, may waive the provisions of § 150.016 of this subchapter for a period not to exceed six months if he shall determine that there is not suitable and affordable alternative housing for the occupants in the area and enforcement of the provisions would work a substantial hardship on the occupants.

('71 Code, § 13-92) (Ord. passed 4-15-80)

#### **§ 150.018 BASEMENT DWELLING UNITS.**

No person shall let to be occupied a room in any cellar or basement for use as a habitable room unless the following standards are met:

(A) The ceiling shall have a clear inner height of at least seven feet, six inches and shall be at least three feet, six inches above the surface of the street or ground outside of or adjoining the room.

(B) The floors and walls shall be waterproof and damp-proof and the room or rooms shall be well drained and dry.

(C) There shall be one or more windows, the combined total sash area of which shall not be less than eight square feet, or  $\frac{1}{10}$  of total floor area, whichever is greater, which windows shall open readily for purposes of ventilation directly to the outside air, except that an approved method of mechanical ventilation may be substituted therefor.

(D) All basement dwelling units shall have two means of egress.

('71 Code, § 13-93) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.019 PROHIBITED USES.**

No person shall occupy or let to be occupied any dwelling unit which opens into a paint shop, paint store, vulcanizing shop, public garage, or any place where paint, varnishes, lacquers, thinners, gasoline, or petroleum products are stored. Common walls or ceilings separating such usage from dwelling units shall have no vent or openings whereby fumes or vapors may pass into the dwelling unit.

('71 Code, § 13-94) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.020 VENTILATION.**

No person shall occupy as owner-occupant or let to be occupied any dwelling unit which is improperly ventilated. A dwelling unit is improperly ventilated unless:

(A) Every habitable room shall have a window or windows with a total sash area equal to at least  $\frac{1}{10}$  of its floor area opening on a street, alley, yard or court open to the sky; such window or windows to be so constructed that at least the top half of the sash area can be opened, except that an approved method of mechanical ventilation may be substituted therefor.

(B) Every bathroom and water closet compartment shall have a window with a minimum sash area of three square feet or shall be ventilated by a mechanical means capable of producing a change of air every 12 minutes.

(C) Every basement, cellar, and crawl space shall have some means of ventilation by providing some windows, openings, vents, or mechanical vents.

('71 Code, § 13-95) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.021 ACCESSORY STRUCTURES.**

It shall be the duty of the owner of premises let to be occupied in whole or in part as a dwelling unit to maintain all accessory structures including detached garages in good repair and in conformance with the requirements of §§ 150.036 through 150.045 of this chapter.

('71 Code, § 13-96) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.022 STORAGE FUEL TANKS.**

It shall be the duty of the owner of premises let to be occupied in whole or in part as a dwelling unit to insure that all fuel tanks be provided with means for venting and that such tanks be installed and maintained so as not to be a hazard to the premises served or surrounding property and conform with the codes and ordinances of the Planning and Community Development Department and Fire Prevention Bureau.

('71 Code, § 13-97) (Ord. passed 4-15-80, Am. Ord. passed 2/7/09) Penalty, see § 150.999

#### **§ 150.023 PUBLIC NUISANCES.**

All premises shall be maintained free from public nuisances.

('71 Code, § 13-98) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **MINIMUM STANDARDS**

#### **§ 150.035 APPLICABILITY.**

The following subchapter shall be considered minimum standards for use and occupancy of dwellings under this subchapter, violation of which may result in the imposition of criminal sanctions on the owners and occupants of dwelling units. Nothing herein is intended to preclude prosecution under any other statute, ordinance, or regulation which imposes a higher standard than those prescribed herein.

('71 Code, § 13-35) (Ord. passed 4-15-80)

#### **Statutory reference:**

*Authority to adopt minimum standards, see  
R.S.A. 48-A:11*

#### **§ 150.036 EXTERIOR STRUCTURE.**

No person shall occupy as owner/occupant, or let to another for occupancy as a dwelling unit, any structure or part thereof unless the entire exterior of the structure is in compliance with the standards contained in §§ 150.037 through 150.045 of this subchapter.



('71 Code, § 13-40) (Ord. passed 4-15-80) Penalty, see § 150.999

**§ 150.037 FOUNDATIONS.**

All foundations shall be free of holes and breaks and shall safely support the structure at all points. All foundation walls shall be kept in good, safe, sound condition and free of holes, cracks, and breaks. ('71 Code, § 13-41) (Ord. passed 4-15-80) Penalty, see § 150.999

**§ 150.038 EXTERIOR WALLS.**

All exterior walls and trim shall be free of holes, breaks, loose or rotting boards or timbers, and other conditions which might admit rain or dampness to interior portions of the walls or to the occupied spaces of the building. The exterior surface siding shall be maintained weatherproof and shall be surface coated to prevent deterioration. All exterior walls and trim shall be kept painted, treated, sided, or otherwise maintained so as to be substantially weatherproof and neat in appearance.

('71 Code, § 13-42) (Ord. passed 4-15-80) Penalty, see § 150.999

**§ 150.039 ROOFS.**

The roof shall be structurally sound, weathertight, and have no defects which might admit rainwater. Water from roofs shall be conveyed so as to prevent wet floors, walls, ceilings, or a nuisance to adjacent buildings or overflowing on abutting properties.

('71 Code, § 13-43) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.040 CHIMNEYS, FLUES, CLEANOUT, AND VENTS.**

All chimneys and similar appurtenances or attachments shall be maintained structurally sound, in good repair and safe to use.

('71 Code, § 13-44) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.041 PORCHES, STAIRS, AND HANDRAILS.**

Every exterior stair, porch, balcony, and all appurtenances attached thereto shall be structurally sound and no part thereof shall show excessive wear, or be broken, cracked, or loose. Carpeting or other covering on stairs and porches shall be maintained in a safe condition. Every flight of stairs which is more than two risers high shall have at least one handrail, and every open portion of a stair, porch, landing, or balcony shall have guardrails. Guardrails shall be firmly fastened and maintained in good condition and new or replacement guardrails shall comply with the provisions of the Building Code.

('71 Code, § 13-45) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.042 DOORS AND DOORWAYS.**

Every exterior door frame shall have a door and this door shall be weathertight within its frame. Every exterior door, door hinge, doorknob, and door latch shall be maintained in good usable condition. Door locks in dwelling units shall be in good repair and capable of tightly securing the door. Every door required as an exitway shall be capable of being opened from the inside easily without the use of a key. All entrance doors of each dwelling unit shall be equipped with functioning locking devices.

('71 Code, § 13-46) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.043 HATCHWAYS.**

Every hatchway, bulkhead, and exitway shall be so constructed and maintained as to prevent the entrance of rodents, rain, and surface drainage water into the structure.

('71 Code, § 13-47) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.044 WINDOWS.**

Every window sash and skylight shall be structurally sound and fit within its frame and be weathertight so as to prevent passage through it of rain, snow, wind, or other outside elements. Every window sash shall be fully fitted with glass, plexiglass, or polycarbonate panes which are without cracks or holes. Every window other than a fixed window, shall be capable of being held in the open position and locked in the closed position by window hardware.

('71 Code, § 13-48) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.045 SCREENS AND STORM WINDOWS.**

Every window with openings to outdoor space required for ventilation in habitable rooms shall be supplied with insect screens and storm windows which shall be maintained in good repair. This section shall not apply to owner-occupied dwelling units.

('71 Code, § 13-49) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.046 INTERIOR STRUCTURE.**

No person shall let for occupancy as a dwelling unit any structure or part thereof unless the entire interior of the structure is in compliance with the standards contained in §§ 150.047 through 150.051 of this sub-chapter.

('71 Code, § 13-50) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.047 STRUCTURAL MEMBERS.**

The supporting structural members shall be maintained structurally sound showing no evidence of deterioration or defects which would render them inadequate or unsafe.

('71 Code, § 13-51) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.048 DAMPNESS.**

Cellars, basements, and crawl spaces in every structure shall be maintained free from repeated dampness or standing water.

('71 Code, § 13-52) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.049 INDOOR STAIRS AND HANDRAILS.**

Interior stairs shall be maintained structurally sound, and no part thereof shall show excessive wear or be broken, warped, cracked or loose. Every flight of stairs which is more than two risers high shall have at least one handrail, and every open portion of a stair, porch, landing, or balcony shall have guardrails as safety requires. Guardrails shall be firmly fastened and maintained in good and safe condition and new or replacement guardrails shall comply with the provisions of the building code.

('71 Code, § 13-53) (Ord. passed 4-15-80) Penalty, see § 150.999

#### ***Cross-reference:***

*Adoption of Building Code, see § 151.01*

#### **§ 150.050 INTERIOR SURFACES.**

Floors, walls, windows, doors, ceilings, and all other interior surfaces shall be maintained in sound, clean, and sanitary condition free of peeling paint, cracked or loose plaster, decayed wood, or other defective surface conditions.

('71 Code, § 13-54) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.051 FLOOR COVERINGS.**

Carpeting, linoleum, or other covering on stairs and floors shall be maintained in a safe condition.

('71 Code, § 13-55) (Ord. passed 4-15-80) Penalty, see § 150.999

### ***MAINTENANCE OF PREMISES***

#### **§ 150.060 SANITATION.**

It shall be the duty of the owner of any structure or part thereof let for occupancy as a dwelling unit to maintain all exterior property areas in a clean and sanitary condition free from any accumulation of rubbish and garbage.

('71 Code, § 13-60) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.061 SIDEWALKS AND OTHER AREAS.**

It shall be the duty of the owner of any structure or part thereof let for occupancy as a dwelling unit to maintain all sidewalks, walkways, steps, and driveways in a safe condition and free of snow, ice, and other debris, hazards, or obstructions.

('71 Code, § 13-61) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.062 COMMON AREAS; SANITATION.**

It shall be the duty of the owner of any structure or part thereof let for occupancy as a dwelling unit to maintain all common areas of the structure in a clean and sanitary condition.

('71 Code, § 13-62) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.063 WASTE STORAGE FACILITIES.**

(A) The owner of any structure, or part thereof, let for occupancy as a dwelling unit shall supply each dwelling unit with rigid plastic or metal containers, with covers, of sufficient volume to provide storage for all rubbish and garbage generated within the dwelling unit. At least one such container shall be provided for each dwelling unit.

(B) When they are not placed at the right-of-way for collection, all waste storage containers shall be stored on the property to which they belong in a manner that will prevent their being blown or carried about by the elements and minimize the likelihood that they will be vandalized. When there is a repeated violation of this section, the Department may establish specific requirements reasonably calculated to correct the condition. Such requirements may include, but are not limited to, proper container storage arrangements and numbering or other identification of containers.

('71 Code, § 13-63) (Ord. passed 4-15-80; Am. Ord. passed 6-21-94) Penalty, see § 150.999

(C) The owner(s) of any Multi-Family dwelling shall supply a dumpster or toters sufficient to provide storage for all rubbish and garbage generated within the Multi-Family dwelling. Dumpsters will not be emptied or serviced by the Manchester Highway Department or public works. *(Rev. 11/5/03)*

#### **§ 150.064 WASTE STORAGE.**

It shall be the responsibility of the occupants of any dwelling unit to properly store all rubbish and garbage in the containers required in this subchapter. Rubbish or garbage shall not be allowed to accumulate in public halls, stairways, or other means of egress. All halls, passages, and stairways shall be kept free from encumbrances or obstructions of any kind. ('71 Code, § 13-64) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.065 SANITATION; DWELLING UNITS.**

It shall be the duty of the occupant of any dwelling or rooming unit to maintain the unit and parts appurtenant thereto over which he has control in a clean, safe, and sanitary condition.

('71 Code, § 13-65) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.066 PLUMBING FIXTURES.**

The occupant shall be responsible for the cleanliness and sanitation of all plumbing fixtures used by his household. No occupant shall deposit material in any fixture which will result in stoppage or drainage of the fixture. Stoppages deemed to be due to improper use or neglect shall be corrected by the occupant, but nothing in this section shall be construed to exempt the owner or his agent from making plumbing repairs as required in section § 150.084 of this chapter.

('71 Code, § 13-66) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.067 RODENTS AND INSECTS.**

All structures shall be kept free from the infestation of insects, rodents, and other pests and where such infestation exists the insects, rodents, or other pests shall be promptly exterminated by an accepted process by a licensed exterminator. After extermination, suitable precautions must be taken to prevent reinfestation. ('71 Code, § 13-67) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.068 RESPONSIBILITY FOR INFESTATION CONTROL.**

When infestation by insects, rodents, or other pests is limited to a single dwelling unit, responsibility for extermination lies within the occupant thereof. When such infestation occurs in more than one dwelling unit of a structure, or in the common areas of a structure, responsibility for extermination lies with the owner thereof. ('71 Code, § 13-68) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.069 LEAD BASED PAINT.**

All interior and exterior surfaces of dwellings, dwelling units, and rooming units shall be free of loose or flaking paint. All newly applied paint must meet the U.S. Consumer Product Safety Commission Standards as being safe in accordance with the provisions of the Board of Health Department. ('71 Code, § 13-69) (Ord. passed 4-15-80) Penalty, see § 150.999

### ***REQUIRED FACILITIES***

#### **§ 150.080 BASIC FACILITIES REQUIRED.**

No person shall occupy as owner/occupant or let to another for occupancy any dwelling, dwelling unit, or rooming unit which does not comply with the requirements contained in this subchapter. ('71 Code, § 13-70) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.081 SANITARY FACILITIES.**

The following minimum sanitary facilities shall be supplied and maintained in sanitary, safe, and working condition:

- (A) *Water closet and lavatory.* Every dwelling unit shall contain within its walls a room separate from habitable rooms, which affords privacy and a water closet supplied with cold running water. Where possible the lavatory must be located in the same room as the water closet, however, if this is not practicable, it shall be located in close proximity to a door leading directly into the room in which the water closet is located. The lavatory shall be supplied with hot and cold running water.
- (B) *Bathtub or shower.* Every dwelling unit shall contain a room which affords privacy to a person in the room and which is equipped with a bathtub or shower supplied with hot and cold running water.
- (C) *Kitchen sink.* Every dwelling unit shall contain a kitchen sink apart from the lavatory which shall be supplied with hot and cold running water.
- (D) *Sanitary facilities, rooming houses.* At least one water closet, lavatory, and bathtub or shower properly connected to an approved water and sewer system and in good working condition, shall be provided for each four rooms within a rooming house wherever the facilities are shared. All such facilities shall be located within the rooming house in a room or rooms which are accessible from a common hall, passageway, or a room used in common (lounge) without going outside the rooming house or passing through another dwelling unit or rooming unit therein and shall be not more than one story removed from any persons sharing such facilities. A ceiling height of six and two-thirds feet in all parts where a person has to stand. Every lavatory, bathtub, or shower shall be supplied with hot and cold running water at all times. Such facilities shall not be located in a cellar. ('71 Code, § 13-71) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.082 WATER AND SEWER SYSTEM.**

Every kitchen sink, lavatory basin, bathtub or shower, and water closet required under the provisions hereof shall be properly connected to either a public water and sewer system or to an approved private water or sewer system. All sinks, lavatories, bathtubs and showers shall be supplied with hot and cold running water. ('71 Code, § 13-72) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.083 WATER HEATING FACILITIES.**

Every dwelling unit shall be supplied with water heating facilities which are installed, maintained, and connected with hot water lines to the fixtures required in this subchapter to be supplied with hot water. Water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn from every required kitchen sink, lavatory basin, bathtub, shower, and laundry facility at a temperature of not less than 130° F.

('71 Code, § 13-73) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.084 PLUMBING FIXTURES; INSTALLATION AND CONNECTION.**

All plumbing fixtures, vents, drains, and water supply lines shall be properly installed, connected, and maintained in working order, shall be kept free from obstructions, leaks, and defects and shall be capable of performing the functions for which they were designed.

('71 Code, § 13-74) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.085 HEATING FACILITIES.**

Every dwelling and dwelling unit shall have heat equipment and appurtenances which are properly installed, and are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein to a temperature of at least 70° F. at 48 inches above floor level under ordinary winter conditions. When the landlord has agreed to provide heat, every room shall be maintained at a minimum of 68° F. in the daytime and 62° F. at night, or whatever the Federal Energy Commission requires.

('71 Code, § 13-75) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.086 ELECTRICAL SERVICE AND OUTLETS.**

Every dwelling unit shall be supplied with electric service, outlets and fixtures installed and maintained in accordance with the provisions of the electrical code for the city. The following electric outlets are required:

- (A) Every habitable room of a dwelling or dwelling unit shall contain at least two separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture.
- (B) In kitchens, three separate and remote wall-type outlets and one ceiling or wall-type electric light fixture shall be provided.

(C) Every water closet compartment, bathroom, laundry room, or furnace room shall contain at least one electric light fixture.

(D) In addition to the electric light fixture in every bathroom and laundry room there shall be provided at least one electric outlet.

(E) Extension cords. Temporary wiring shall not be used to fulfill the electrical service and facilities required by this section. When extension cords are used, they shall run directly from portable electrical fixtures to convenient outlets. Extension cords shall not lie under rugs or other floor coverings, nor extend through doorways, transoms, or similar openings.

(F) No dwelling unit shall be crosswired unless the electric service for that unit is paid for by the building owner. The following procedures shall apply when a tenant reasonably suspects that his or her dwelling unit is crosswired:

(1) The tenant, at his or her own expense, shall hire a licensed electrician to inspect the premises for such crosswiring. The building owner shall be notified of this inspection at least five working days in advance and shall not unreasonably refuse to restrict access to any portions of the building which must be inspected for the electrician to make an accurate determination of crosswiring.

(2) If the electrician determines that cross-wiring exists, a written report clearly describing the crosswiring shall be provided to the tenant. The tenant may file a copy of the report with the Department.

(3) If a report of crosswiring has been filed with the Department within the preceding year, a subsequent tenant of the same dwelling unit may request that the Department notify the building owner of a violation of this section provided that the crosswiring described in the report was not corrected by rewiring and the tenant demonstrates that he or she is paying for the dwelling unit electrical service.

(4) Upon receipt of an electrician's report of crosswiring, the Department shall give the building owner notice of a violation of this section.

(5) The building owner shall correct the violation by providing evidence that the crosswiring has been eliminated by rewiring or by demonstrating that he or she has assumed responsibility for payment of the entire cost of the affected unit's electric service.

('71 Code, § 13-76) (Ord. passed 4-15-80; Am. Ord. passed 2-15-94) Penalty, see § 150.999

#### **§ 150.087 COMMON HALLWAYS AND STAIRWAYS.**

Every common hallway and stairway shall be supplied with a lighting system which produces illumination sufficient to protect the safety of all persons using those facilities. Such lighting systems shall either be kept in continuous operation or shall be controlled by switches which are conveniently located for all persons who might use the stairway or hallway. ('71 Code, § 13-77) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.088 FACILITIES, EQUIPMENT, AND APPLIANCES.**

All facilities, equipment, and building space and parts in every building and structure shall be constructed and maintained so as to properly and safely perform their intended functions. It shall be the duty of the owner to maintain in good and operable condition such kitchen appliances as are furnished by the owner.

('71 Code, § 13-78) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.089 EXITWAYS.**

Every dwelling unit or rooming unit shall have access to two exitways or stairways leading to the exterior at ground level. Exitways from any one dwelling unit shall not pass through any other such units or bathrooms or toilet rooms. Exitways shall be as remote from each other as is practicable. Access to the two required exits or stairs may be accomplished through a common corridor or hallway, providing such corridor or hallway has direct access to both exits. The use of ladders, ropes, or such devices as substitutes for stairs are prohibited. ('71 Code, § 13-79) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.090 SMOKE DETECTION DEVICES.**

(A) Each dwelling unit contained in a multi-unit dwelling shall be equipped with smoke detection devices. In addition, these devices shall also be located on every floor level of each common stairway and each common hallway, including basements.

(B) Each single-family dwelling shall be equipped with smoke detection device outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the single-family dwelling including basements.

(C) Each rental unit in a building or single family dwelling which provides permanent or transient living facilities for one or more persons, which is occupied by tenants on a rental basis shall be equipped with at least one smoke detection device.

(D) All buildings four stories or more in height, or with 12 or more dwelling units shall comply with the provisions of the Life Safety Code sections on detection, alarm, and communication. These alarm systems shall be installed and maintained in accordance with the Fire Department rules and regulations.

(E) All smoke detection devices, installed in all multi-unit dwellings after July 1, 1984 shall be powered by the house electrical current.

('71 Code, § 13-80) (Ord. passed 4-15-80; Am. Ord. passed 11-7-85) Penalty, see § 150.999

### ***CERTIFICATES OF COMPLIANCE***

#### **§ 150.100 PERMIT REQUIRED.**

It shall be unlawful for anyone to operate a rooming house or to rent, offer for rent, or allow any person to occupy any dwelling, dwelling unit, or condominium unit without a certificate of compliance, interim rental permit, or transfer permit unless the building is exempt pursuant to this subchapter.

('71 Code, § 13-200) (Ord. passed 10-15-91) Penalty, see § 150.999

#### **§ 150.101 APPLICATION OF SUBCHAPTER; EXCEPTION.**

(A) Except as provided herein this subchapter shall apply to all buildings containing rental property. Structures having no more than four dwelling units shall not be required to obtain a certificate of compliance provided that:

- (1) One of the building dwelling units constitutes the principal residence of the owner; and
- (2) It has been this owner's principal residence continuously since September 2, 1986.



B) Owners of structures not required to have a certificate of compliance shall file the initial application without fee. This exemption shall terminate automatically upon the sale or other transfer of the property.  
(‘71 Code, § 13-201) (Ord. passed 10-15-91)

#### **§ 150.102 APPLICATION FOR CERTIFICATE.**

The owners of each building containing rental property shall file a completed application for a certificate of compliance, including the fee required by this subchapter, with the Department. A separate application shall be filed for each building containing dwelling or rooming units. Each condominium unit shall require a separate application. Application forms shall be prepared by the Department and shall contain such information as is required by the Department. Application forms shall be available at Department offices and at the office of the City Clerk.

(‘71 Code, § 13-202) (Ord. passed 10-15-91)

#### **§ 150.103 INTERIM RENTAL PERMIT.**

The Department shall issue an interim rental permit for each building containing dwelling or rooming units and each condominium unit for which an application has been received unless that building is exempt, as provided herein.

(‘71 Code, § 13-203) (Ord. passed 10-15-91)

#### **§ 150.104 INSPECTION OF PREMISES.**

Following receipt of an application for a certificate of compliance, an inspection of that property shall be conducted to determine compliance with the provisions of this chapter. After the inspection, the Department shall:

(A) Issue a certificate of compliance if the premises comply with all provisions of this chapter; or

(B) Issue a violation notice if the premises do not comply with all provisions of this chapter. The notice shall list all violations, order their correction within a specified time period, establish reinspection requirements and include such other items and conditions as the Department deems appropriate.

(‘71 Code, § 13-204) (Ord. passed 10-15-91)

#### **§ 150.105 REINSPECTION WHERE VIOLATIONS FOUND.**

On or before the date specified in a violation notice, the owner shall cause the correction of all violations. If, on reinspection, the premises are found to comply with all provisions of this chapter, a certificate of compliance shall be issued. If, on reinspection, the premises still do not comply with all provisions of this chapter, the Department may initiate such enforcement action, including but not limited to revocation of the interim rental permit, as he deems appropriate.

(‘71 Code, § 13-205) (Ord. passed 10-15-91)

#### **§ 150.106 CERTIFICATES OF COMPLIANCE; TERM AND RENEWAL.**

Certificates of compliance shall be issued for a term of three years. The expiration date shall be specified in the certificate and the owner shall apply for a renewal of the certificate of compliance at least 30 days prior to the expiration date.

(‘71 Code, § 13-206) (Ord. passed 10-15-91)

#### **§ 150.107 EXTENSION OF TERM.**

If the Director of Planning and Community Development finds that circumstances exist, which make it impossible for the Department to conduct substantially all of the required compliance inspections during an established term, it may extend the term of existing certificates of compliance. Such extensions shall be for a period not to exceed three years and shall be applicable to a particular building only if the owner thereof has applied for and received a certificate showing the extended expiration date. The Director of Planning and Community Development may establish such additional terms and conditions as are appropriate and necessary. The Director of Planning and Community Development shall notify the Board of Mayor and Aldermen of any extensions including the reasons therefore.

('71 Code, § 13-207) (Ord. passed 10-15-91, Am. Ord. 2/7/09)

#### **§ 150.108 NEWLY CONSTRUCTED RENTAL PROPERTY.**

In the case of newly constructed rental property for which a certificate of occupancy has been issued by the Planning and Community Development Department, the following procedures shall apply. The Planning and Community Development Department shall notify the owner of the requirements of this subchapter. An application for a certificate of compliance shall be filed no later than 30 days from such notification. No inspection shall be required and no fee shall be charged for the issuance of the certificate of compliance.

('71 Code, § 13-208) (Ord. passed 10-15-91, Am. Ord 2/7/09)

#### **§ 150.109 TRANSFER OF OWNERSHIP.**

(A) No rental property being rented, offered for rent, or otherwise occupied shall be bought or sold without the property having a certificate of compliance or transfer permit. This section shall not apply to real estate mortgages but shall apply to foreclosure sales.

(B) No rental property being rented, offered for rent, or otherwise occupied under a certificate of compliance shall be bought, sold, or otherwise transferred without an application for assignment of certificate of compliance, including the fee, required by this subchapter, having first been filed with the Department.

(C) Application forms shall be available at the Department offices and at the office of the City Clerk. A separate application shall be required for each dwelling, dwelling unit, condominium unit, or rooming house. Such certificates expire on the date that the previous certificate would have expired.

('71 Code, § 13-209) (Ord. passed 10-15-91)

#### **§ 150.110 TRANSFER PERMITS.**

(A) The Department may, in his discretion, issue a transfer permit, in lieu of a certificate of compliance pursuant to § 150.109(A) of this subchapter. Transfer permits shall contain such reasonable terms and conditions as the Department deems proper and may be issued in circumstances such as the following:

(1) In the case of a backlog of applications for certificate of compliance such as to result in unreasonable delay in transferring ownership;

(2) In the case of mortgage foreclosures, deeds in lieu of mortgage foreclosures, bankruptcy, or other distress sales;

(3) In other cases where the Department deems that good cause exists for the issuance of a transfer permit and such does not adversely affect the objectives of this chapter.

(B) Applications for transfer permits shall be on forms prepared by the Department, shall contain such information as is required by the Department and shall ordinarily be signed by all sellers and buyers.

('71 Code, § 13-210) (Ord. passed 10-15-91, 2/7/09)

#### **§ 150.111 RENTAL ASSISTANCE.**

No owner of rental property with respect to which rental assistance is provided by any city, county, or state agency shall rent the same without applying for a certificate of compliance. ('71 Code, § 13-211) (Ord. passed 10-15-91, Am. Ord. 2/7/09) Penalty, see § 150.999

#### **§ 150.112 PUBLIC RECORDS.**

All applications, permits, certificates, or other documents kept or maintained by the Department pursuant to this subchapter are public records and are available for inspection during regular business hours. ('71 Code, § 13-212) (Ord. passed 10-15-91)

#### **§ 150.113 SPECIAL INSPECTIONS.**

On request of owners, prospective purchasers, real estate brokers, financial institutions, housing agencies, and others with a legitimate interest therein, the Department may inspect or reinspect rental property other than as required in this subchapter. Certificates of compliance shall be issued on such terms as the Department determines to be proper.

('71 Code, § 13-213) (Ord. passed 10-15-91)

#### **§ 150.114 FEES; EXEMPTIONS.**

(A) The following fees shall be charged by the Department.

(1) *Application* - \$25 per dwelling unit or rooming unit as part of each application for a certificate of compliance.

(2) *Inspection*.

(a) Dwelling unit: \$35 per unit for each inspection to determine compliance.

b) Rooming unit: \$15 per room for each inspection to determine compliance.

(3) *Reinspection*. For reinspection of a building:

(a) First reinspection - no charge.

(b) Second and subsequent reinspections - \$25.

(c) In addition, after a second reinspection, the fee shall increase by \$10 for each subsequent reinspection.

(4) *Unaccompanied inspection or reinspection* - \$50 for each inspection or reinspection at which a building owner or his representative is not present unless such arrangement has been agreed to in advance.

(5) *Transfer of ownership* - \$35 per certificate to assign a certificate of compliance to a new owner.

(6) *Replacement of certificate and permit* - \$25 per document for replacing an existing certificate of compliance, interim rental permit, or transfer permit.

(7) *Transfer permit*. Each application for a transfer permit:

(a) One to four dwelling or rooming units - \$125.

(b) Five to eight dwelling or rooming units - \$250.

(c) In addition, each unit in excess of eight units shall be charged at the rate of \$25 per unit.

(8) *Special inspection.* A minimum of \$100 for each inspection and \$25 per dwelling unit or rooming unit for each additional unit after the fourth such unit.

(9) *Extended terms.* \$50 per certificate to extend the expiration date of a certificate pursuant to an action of the Board. ('71 Code, § 13-214)

(B) *Exemptions.* No fee shall be charged under this subchapter for any residential rental property that is owned by the state, the county, the city, the City Housing and Redevelopment Authority, or any agency or facility licensed by the state. Further, no fee shall be charged for student dormitories, homes for the elderly, fraternal, charitable, or other nonprofit organizations which are inspected pursuant to the requirements of the U.S. Department of Housing and Urban Development or state agencies. ('71 Code, § 13-215)  
(Ord. passed 10-15-91; Am. Ord. passed 5-5-92; Am. Ord. passed 6-27-94; Am. Ord. passed 10-7-97)

### ***HOUSING COUNCIL***

**§ 150.125 ESTABLISHED; PURPOSES. *(Repealed 2/7/09)***

**§ 150.126 PLAN, AGENDA, AND REPORT. *(Repealed 2/7/09)***

**§ 150.127 COOPERATION AND STAFF. *(Repealed 2/7/09)***

**§ 150.128 MEMBERSHIP. *(Repealed 2/7/09)***

**§ 150.129 TERMS OF OFFICE. *(Repealed 2/7/09)***

### ***ADMINISTRATION AND ENFORCEMENT***

**§ 150.140 INSPECTION.**

The Director of Planning and Community Development shall direct his attention to dwellings where from citizen complaints or exterior inspection he has reasonable cause to believe there are housing code violations present. In addition, there shall be systematic inspection of all other dwellings.  
( '71 Code, § 13-100) (Ord. passed 4-15-80, Am. Ord. 2/7/09)

**§ 150.141 RESPONSIBILITY OF PERSONS.**

No person shall occupy as owner/occupant or let for occupancy any structure or portion thereof unless the entire premises are in compliance with the standards established in this chapter except as certain sections of this chapter may otherwise delegate responsibility.  
( '71 Code, § 13-101) (Ord. passed 4-15-80) Penalty, see § 150.999

#### **§ 150.142 NOTICE OF VIOLATION.**

Whenever the Department determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation of any provision of this chapter, he may give or cause to be given notice of such violation to the person or persons responsible therefor.

('71 Code, § 13-102) (Ord. passed 4-15-80)

#### **§ 150.143 PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT; POWERS.**

(A) The Planning and Community Development Department and its delegated officers shall exercise the powers that may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation.

(2) To administer affirmations, examine witnesses, and receive evidence.

(3) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

(4) To appoint and fix the duties of such officers, agents, and employees as are deemed necessary to carry out the purposes of this chapter.

(5) To delegate any of its functions under this chapter to the officers that it may designate. ('71 Code, § 13-15) (Ord. passed 8-2-60; Am. Ord. passed 3-19-68, Am. Ord. 2/7/09)

(B) The following positions within the Planning and Community Development Department are hereby abolished:

(1) Account Clerk

(2) Clerk Typist III

(3) Housing Code Administrator

(4) Housing Code Director

(5) Housing Inspectors (5 positions)  
(Ord. passed 7-1-94)

**Statutory reference:**

*Authority of city to confer power upon  
housing code department, see  
R.S.A. 48-A:8*

#### **§ 150.144 GROUNDS FOR FINDING UNFITNESS.**

(A) The Planning and Community Development Department may determine that a dwelling is unfit for human habitation if it finds that conditions exist in the dwelling which are unusually, abnormally, or unreasonably dangerous or injurious to the health or safety of the occupants of the dwelling, the occupants of neighboring dwellings or other residents of the municipality.

(B) Such conditions may include the following:

(1) Defects which increase beyond normal the hazards of fire, accident, or other calamities.

- (2) Lack of reasonable adequate ventilation, light, or sanitary facilities.
- (3) Dilapidation, disrepair, dangerous structural defects.
- (4) Uncleanliness.
- (5) Overcrowding.
- (6) Inadequate ingress and egress.
- (7) Inadequate drainage.
- (8) Any violation of other health, fire, or safety regulations.

(R.S.A. 48-A:7) ('71 Code, § 13-16) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

#### **§ 150.145 IMMUNITY OF PERSONNEL.**

No officer or employee charged with the enforcement of this chapter and acting for the city in the discharge of his duties shall render himself personally liable for any damage that may accrue to any person or property as a result of his acts in the discharge of his duties. Any suit brought against any officer or employee because of any act performed by him under the provisions of this chapter shall be defended by the City Solicitor until the final determination of the proceedings therein.

('71 Code, § 13-17) (Ord. passed 8-2-60)

#### **§ 150.146 COMPLAINT; NOTICE; HEARING.**

Whenever a petition is filed with the Planning and Community Development Department by at least ten residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the Planning and Community Development Department by inspection that any dwelling is unfit for human habitation, it shall, if preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complaint stating the charges in that respect. If the person to be served resides outside the state, service may be made upon him by registered mail; and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication in a newspaper having general circulation in the municipality, such publication to be at least ten days before the date set for the hearing. Such complaint shall contain a notice that a hearing will be held before the Planning and Community Development Department at a place therein fixed not less than ten days or more than 30 days after the serving of said complaint; that the owner, mortgagee, and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Planning and Community Development Department.

(R.S.A. 48-A:3(II))('71 Code, § 13-18) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

#### **§ 150.147 DEPARTMENT ORDER AFTER HEARING.**

If, after such notice, and hearing, the Planning and Community Development Department determines according to the standards prescribed in this chapter that the dwelling under consideration is unfit for human habitation, it shall state in writing its findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order, which, if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to remove or demolish such dwelling.

(R.S.A. 48-A:3(III)) ('71 Code, § 13-19) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

#### **§ 150.148 APPEALS FROM PLANNING AND COMMUNITY DEVELOPMENT ORDERS.**

(A) If an owner is aggrieved by an order of the Planning and Community Development Department made pursuant to § 150.147 hereof, he may appeal to the Board of Mayor and Aldermen.

(B) The Board of Mayor and Aldermen shall hold a public hearing upon the appeal, due notice of the hearing having first been given to the Planning and Community Development Department and to the owner.

(C) The Board of Mayor and Aldermen may affirm or revoke the order of the Planning and Community Development Department or they may modify it in accordance with their findings. If they shall affirm or modify the order, the Planning and Community Development Department shall proceed to enforce the order as affirmed or so modified, in the manner prescribed in § 150.149. If the Board of Mayor and Aldermen shall revoke said order, the proceedings shall be terminated.

(R.S.A. 48-A:3(IV)) ('71 Code, § 13-20) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

#### **§ 150.149 COURT HEARING.**

(A) If the owner fails to comply with an order, made pursuant to the provisions of § 150.147 hereof, to repair, alter, improve, or to vacate and close the dwelling, or to remove or demolish the dwelling, the Planning and Community Development Department may file a petition in the Superior Court in which it shall set forth the charges issued pursuant to § 150.146, as well as any other allegations bearing upon the unfitness of the dwelling for human habitation.

(B) The court shall thereupon direct notice to be given all parties having an interest in said dwelling, including mortgagees and persons in possession thereof. Such notice shall be given, where practicable, by personal service, except that if the person to be served resides outside the state, service may be made upon him by registered mail: and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication of the petition in a newspaper having general circulation in the municipality, such publication to be at least ten days before the date set for the hearing.

(C) The court shall set a date for hearing such charges and additional allegations.

(D) Upon hearing, the matter shall be treated as de novo, and the court shall hear such pertinent evidence concerning the fitness of the dwelling for human habitation as may be relevant.

(R.S.A. 48-A:4) ('71 Code, § 13-21) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

#### **§ 150.150 COURT ORDER.**

(A) The court shall as soon as practicable issue its order upon the petition; and if the court finds the dwelling complained against is unfit for human habitation due to any of the causes or conditions enumerated in § 150.144

(B), such order shall direct the Planning and Community Development Department to repair, alter, or improve such dwelling to render it fit for human habitation if such repair, alteration, or improvement can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost; or if the repair, alteration or improvement of said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, to remove or demolish such dwelling.

(B) If the court shall find in favor of the owner, it shall award to him his reasonable costs and expenses, including counsel fees, all as determined by the court, incurred by him in his defense of the action in the Superior Court.

(R.S.A. 48-A:5) ('71 Code, § 13-22) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

#### **§ 150.151 LIEN.**

(A) Whenever the Planning and Community Development Department shall incur cost for the repair, alteration, improvement, vacating or closing, or for the removal or demolition of a dwelling, pursuant to an order of

the Superior Court, the amount of such costs shall be a lien against the real property which such cost was incurred and such lien, including as part thereof upon allowance of his costs all necessary attorney's fees, may be foreclosed upon order of the Superior Court made pursuant to a petition for that purpose filed in said court. Such lien shall be subordinate to mortgages of record made before the institution of proceedings under this section. Notice of the lien shall be filed with the register of deeds for the county in which the real estate is situated, and shall be recorded by him.

(B) If the dwelling is demolished by the Planning and Community Development Department, it shall sell the materials of such dwelling and pay the proceeds of such sale over to the Superior Court, for distribution to such persons the court shall find entitled thereto.

('71 Code, § 13-23) (Ord. passed 8-2-60, Am. Ord. 2/7/09)

**Statutory reference:**

*For similar statutory provisions, see  
R.S.A. 38-A:6*

**§ 150.999 PENALTY.**

Any person, firm or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding the maximum allowed by R.S.A. 47:17 or other law. Each day a violation occurs or continues shall constitute a separate offense.

('71 Code, § 17¾-1)